



# CRS Report for Congress

## The Kurds in Post-Saddam Iraq

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### Summary

Iraq's Kurdish community, repressed by previous Iraqi governments, has become a major force in post-Saddam Iraq. The Kurdish-inhabited regions of northern Iraq are relatively peaceful, development is proceeding there, and the Kurdish leaders now occupy senior positions, including the presidency. However, there are concerns that the Kurds are using their political strength to serve their own interests at the expense of a unified Iraq. This report will be updated. See also: *CRS Report RL31339: Iraq: U.S. Regime Change Efforts and Post-Saddam Governance*.

### Pre-War Background

The Kurds, a mountain-dwelling Indo-European people, comprise the fourth largest ethnic group in the Middle East. Although their origins are believed to go back more than two millenia, they have never obtained statehood. An initial peace settlement after World War I held out hopes of Kurdish independence, but under a subsequent treaty they were given minority status in their respective countries — Turkey, Iran, Iraq, and Syria — with smaller enclaves elsewhere in the region. (See dark gray area of map). Kurds now number between 20 and 25 million, with an estimated 4 to 4.5 million in Iraq, roughly 15 to 20 percent of the Iraqi population. With a few exceptions, Kurds are Muslims of the Sunni sect and speak a language (consisting of several dialects) akin to Persian.

To varying degrees, Kurds have been objects of discrimination and persecution in the countries where they reside. Some Kurds would settle for meaningful autonomy in their countries of residence, while others aspire to an independent state. In strictly legal terms, Kurds have enjoyed more national rights in Iraq than in any other host country. Successive Iraqi governments authorized limited use of the Kurdish language in elementary education (1931), recognized a "Kurdish nationality" theoretically co-equal with "Arab nationality" (1958), and implemented a limited program of autonomy for the Kurdish areas (1974). In practice, Iraqi concessions to the Kurdish minority were more seeming than real, and Kurds complained that only those members of their community willing to accept direction from Baghdad were allowed to take part in the autonomous administration. For the three decades that preceded the U.S.-led expulsion of Iraqi forces

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from Kuwait in 1991, an intermittent insurgency on the part of Iraqi Kurdish militia (“*peshmerga*”) was met with increasingly harsh suppression by successive Iraqi regimes, culminating in brutal reprisals by the Ba’thist government of Saddam Hussein.

For some years, Kurdish dissidence in Iraq was led by the Barzani tribe, which comes from a village approximately 60 miles northeast of Mosul. Their storied chieftain, the late Mulla Mustafa Barzani, founded the Kurdish Democratic Party during a period of exile after World War II. He returned to Iraq in 1958, and soon became the focal point for the Kurdish rebellions against Baghdad. After some vacillation, he rejected the Iraqi government’s declaration of Kurdish autonomy in 1974,<sup>1</sup> and launched a new revolt, which collapsed in 1975 when neighboring Iran withdrew its support for the Kurdish militia. Barzani, granted asylum in the United States, died in 1979, and leadership of his party ultimately passed to his son Masoud Barzani. In the meantime, some years earlier, a younger, more urban and left-leaning group under Jalal Talabani emerged, and it broke with Barzani in 1964. In 1975, Talabani founded a rival group, the Patriotic Union of Kurdistan (PUK). Since then, the KDP and the PUK have been the leading voices of the Iraqi Kurdish movement, although other smaller groups have appeared as well. Differences between the KDP and PUK center more on leadership than ideology. The KDP, generally more tribal and traditional, is strongest in the mountainous northern Kurdish areas. The PUK predominates in southern Kurdish areas. The two have differed over the degree to which they should accommodate the central government and over their relationships with Iran, sometimes swapping positions, but their biggest differences were over power and revenue sharing (see below).

Regional developments have further complicated the status of the Kurds in Iraq. During the first few years of the 1980-1988 Iraq-Iran war, the Iraqi government adopted a more conciliatory approach toward the Kurds to minimize domestic problems that would complicate the war effort. In 1984, Talabani’s PUK agreed to cooperate with Baghdad, but Barzani and the KDP remained in opposition. During 1987-1989, the height of the Iran-Iraq war and its immediate aftermath, Iraq tried to set up a “cordon sanitaire” along the border with Iran, and it arbitrarily imprisoned, tortured, and forced resettlement of Kurds outside their area in a so-called “Anfal (Spoils) campaign,” which some human rights organizations say killed as many as 100,000 Kurds. (Human Rights Watch report, [<http://hrw.org/reports/1993/iraqanfal/ANFALINT.htm>].) Iraqi forces launched at least two lethal gas attacks against Kurdish targets in 1988, including the town of Halabja (March 16, 1988, about 5,000 killed). Iraqis denied the reports or justified these actions as responses to Kurdish support for Iranian forces.

Three years later, the allied campaign against Iraq following its invasion of Kuwait gave the Kurds an opportunity to launch another insurrection, which Iraqi forces succeeded in suppressing. However, U.S. and allied forces in mid-1991 instituted a no-fly zone over the northern Kurdish areas, enabling the Kurds to establish a de facto autonomy. In 1991, Kurdish leaders joined the Iraqi National Congress (INC), a U.S.-sponsored opposition group, and subsequently allowed the INC to establish a presence in Iraqi Kurdish territory. The Kurds supported several abortive coup attempts by the INC and other opposition groups against Saddam Hussein in the 1990s.

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<sup>1</sup> The government’s so-called Law of Self-Rule (No. 33 of 1974) provided for limited governing institutions in some Kurdish regions but failed to garner widespread Kurdish support.

Freed temporarily from central governmental control, the Kurds of Iraq set up a rudimentary administration in their enclave and held elections for a 105-member provisional parliament in 1992. The two principal Kurdish factions, the KDP and the PUK, each gained 50 seats, with the other five allocated to small Christian groups. No candidate received a clear majority in the concurrent presidential election, and Kurdish leaders subsequently agreed to rule jointly. On October 2, 1992, the Iraqi Kurdish parliament called for “the creation of a Federated State of Kurdistan in the liberated part of the country,” although it added that “this federated state does not question the territorial integrity of Iraq. ...”<sup>2</sup> Iraqi leaders, however, feared that Kurdish demands for a federal system masked a quest for full independence, and adjacent states with large Kurdish populations such as Turkey, Iran, and Syria have shared this concern.

In early 1994, the uneasy power-sharing arrangement between the KDP and PUK collapsed with the outbreak of armed clashes between the two, initially over questions of land ownership. As the quarrel worsened, the PUK charged that the KDP, which controls areas adjacent to the Turkish border, failed to share revenues on truck traffic departing northern Iraq for Turkey. The KDP, on its part, charged that the PUK expropriated funds belonging to their joint provisional administration. The nadir in PUK-KDP relations occurred in mid-1996, when the KDP briefly sought help from Saddam’s regime in seizing Irbil, the seat of the regional Kurdish government, which the PUK had captured in 1994. The Kurdish provisional parliament became inactive and the Kurdish regional authority effectively split into KDP and PUK entities. However, the United States, supported by Britain and Turkey, spearheaded negotiations that culminated in a meeting in Washington D.C. between Barzani and Talabani in September 1998, at which the two leaders agreed on steps toward a reconciliation. The so-called “Washington Declaration” was endorsed at the first session of a reconvened Kurdish parliament on October 5, 2002.

By mid-2002, the Kurds, along with other Iraqi opposition groups, had begun to calculate that the Bush Administration would overthrow Saddam Hussein militarily, and positioned themselves to capitalize on this prospect. In February 2003, opposition groups met in Kurdish-controlled territory in northern Iraq to form a “transition preparation committee,” although these groups were disappointed by a subsequent U.S. decision to set up an occupation authority to govern Iraq after the fall of the regime, rather than immediately turn over governance to Iraqis.

## The Immediate Post-Saddam Period

Contrary to some expectations, there was no mass exodus of Kurds from their homes during the major combat phase of Operation Iraqi Freedom; northern Iraq remained stable and the Kurds welcomed the fall of Saddam Hussein in April 2003. However, they lobbied the United States for the early return of Iraq’s sovereignty and to grant broad advisory powers to a 25-person “Iraq Governing Council (IGC)” that was appointed in July 2003. On the IGC were Barzani and Talabani, along with three independent Kurdish leaders. A top Barzani aide, Hoshyar Zebari, served as “foreign minister” in the IGC-appointed “cabinet” that served from September 2003 until an interim government was appointed to assume sovereignty on June 28, 2004. In the interim government, Zebari remained Foreign Minister, and a top Talabani aide, Barham Salih, became deputy Prime

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<sup>2</sup> Institut Kurde de Paris, no. 91-92. October-November 1992. P. 1.

Minister. The high-level Kurdish participation marked the first time in Iraq's history that the Kurds had entered national politics on an equal footing with Iraq's Arab majority.

At the same time, the approximately 75,000 total *peshmerga*, as the most pro-U.S. force in Iraq, have played a growing role in the coalition-trained Iraqi security forces. Although *peshmerga* fighters have been primarily deployed in Kurdish areas to ensure that the insurgency in Arab Iraq does not spill over into the north, the major Kurdish leaders have supported the recruitment of some *peshmerga* into the national security forces. The exact number of *peshmerga* in the national forces is not known, although some are serving in Baghdad as well as the northern cities of Mosul, Tal Affar, and Kirkuk, that abut the Kurdish-controlled region.

The United States and its Iraqi allies reached agreement in November 2003 that an interim constitution, a "Transitional Administrative Law" (TAL), would be drafted and signed before Iraq regained its sovereignty in June 2004. The TAL, signed March 8, 2004, laid out a political transition process and citizens' rights, but several provisions concerned the rights and privileges of the Kurds. Over the objections of Iraq's Shiite Muslim leaders, the Kurds succeeded in inserting a provision into the TAL that allows citizens of any three provinces to vote down, by a two-thirds majority, a permanent constitution that was put to a public referendum by October 15, 2005. The Kurds constitute an overwhelming majority in Dohuk, Irbil, and Sulaymaniyah provinces, assuring them of veto power in that referendum, but the Sunni and Shiite Arabs also would have veto power. Several other provisions ensured Kurdish autonomy<sup>3</sup>:

- The Kurds maintain their autonomous "Kurdistan Regional Government" (KRG), but the TAL disallows changes to the boundaries of Iraq's 18 provinces. This provision denies the Kurds control of the city of Kirkuk, the capital of Tamim province, although a subsequent provision allows for a compensation process to resettle Kurds expelled from Kirkuk by Saddam. The Arabic and Kurdish languages were deemed "the two official languages of Iraq."
- The KRG was given powers to alter the application, in the Kurdish areas, of those Iraqi laws that do not relate to foreign policy, national security, national budgetary matters, and control of Iraq's natural resources, including power to "impose taxes and fees within the Kurdistan region." The KRG retains "regional control over police forces and internal security," thereby allowing the *peshmerga* to legally continue to operate.

## **Elections, the Permanent Constitution, and Political Disputes**

In late 2004, the Kurds began positioning themselves for the January 30, 2005, national elections for a 275-seat transitional National Assembly (which chooses an executive), and simultaneous Kurdistan regional assembly and provincial elections. This government would be in place until the December 15, 2005, elections for a permanent government, and would, perhaps more importantly, play a major role in drafting the

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<sup>3</sup> The text of the TAL can be obtained from the CPA website: [<http://cpa-iraq.org/government/TAL.html>].

permanent constitution (voted on in an October 15, 2005, referendum). The KDP and PUK concluded that their electoral prospects would be strengthened by allying; they jointly offered a 165-member “Kurdistan Alliance” slate in the Assembly elections, which were based on proportional representation. The Kurdistan Alliance won about 26% of the vote, earning 75 Assembly seats. The two major parties also ran a joint slate in the provincial and Kurdish regional elections; winning 82 seats in the 105-seat Kurdish regional assembly, with independent parties splitting the remaining 23 seats.

On the strength of their electoral showing, the main Kurdish parties, in talks with the victorious Shiite “United Iraqi Alliance” (UIA), which won 140 seats, insisted on a number of demands, knowing that their 75 votes would be needed to obtain the two-thirds majority needed to confirm a new leadership structure. The Kurds succeeded in engineering Talabani to be president of Iraq and in obtaining a number of favorable provisions in the permanent constitution. (The constitution was adopted in the October 15, 2005, referendum despite Sunni opposition.) The permanent constitution provides<sup>4</sup>

- That Arabic and Kurdish are the two official languages (Article 4);
- That individual regions (the three Kurdish provinces of Dohuk, Irbil, and Sulaymaniyah are recognized as a legal region in Article 113) have substantial powers, including input on how to develop oil and gas resources from new fields. The regions also have the power to amend the application of national law on issues not specifically the purview of the national government; to maintain internal security forces; and to establish embassies abroad (Article 117); and
- That an Iraqi Property Claims Commission will continue its work in reversing the Saddam-era replacement of Kurdish inhabitants of Kirkuk with Arabs, and then a referendum is to be conducted in Kirkuk to determine whether its citizens want to formally join the Kurdistan region. The referendum is to be conducted by December 31, 2007 (Article 140). The Iraq Study Group report, issued December 6, 2006, says that, because of Kurdish attempts to gain control of Kirkuk, the situation there is “dangerous” and that “international arbitration is necessary to avert communal violence.” Recommendation 30 adds that the referendum on Kirkuk should be delayed.

The permanent constitution does not speak to the issue of Kurdish independence. Kurdish leaders — possibly at odds with mainstream Kurdish opinion — have said that, for now, they would not push for independence. As evidence of the popularity of independence among the Kurdish population, particularly the younger Kurds, a “referendum” was held at the margins of the January 30, 2005 vote asking Kurdish voters if they backed Kurdish independence; about 95% of respondents said yes. The survey had been demanded by 1.7 million signers of a petition, circulated in 2004. The Kurdish leadership stance is likely to ease the concerns of Turkey, as well as Syria and Iran, which have substantial Kurdish populations. On the other hand, Turkey fears that affiliation of

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<sup>4</sup> The text of the constitution is at [<http://washingtonpost.com/wp-dyn/content/article/2005/10/12/ar2005101201450.htm>].

Kirkuk to the Kurdistan region would give the Kurds enough economic strength to support a drive for independence. (Kirkuk purportedly sits on 10% of Iraq's overall proven oil reserves of about 112 billion barrels.) In addition, there is a substantial Turkoman minority in Kirkuk who also claim a say about the city, and Turkey is said to be seeking to protect them. Beyond fearing a potential Iraqi Kurdish drive for independence that could serve as a model for Turkish Kurds, Turkey accuses the Kurdistan regional government of providing safe haven in northern Iraq for fighters from the Turkish Kurdish opposition Kurdistan Workers' Party (PKK). Turkey also accuses U.S. forces of failing to act against the PKK elements.

The Kurdish showing in the December 2005 elections was not as strong as previous elections, because Sunnis participated and splits are emerging with the other major Iraqi communities over the degree of autonomy exercised by the Kurds. The Kurdistan Alliance won 53 seats, down from the 75 after the January election. Nonetheless, Talabani remained President; Zebari is still Foreign Minister, and Salih is deputy Prime Minister. Opting to solidify his political base in the Kurdistan region rather than participate in national politics in Baghdad, Barzani, on June 12, 2005, was named "President of Kurdistan" by the 111-seat Kurdish regional assembly that was elected in January 2005. Significant strains emerged in September 2006, when the central government criticized the Kurdish regional government for its decree that the Iraqi national flag, a holdover from the Saddam era, not be flown in the Kurdish regions. There are also tensions over the Kurds' deals with some small European oil companies to drill for oil in the Kurdish areas, revenues from which are reportedly not being deposited into the Central Bank. In December 2007, negotiations between the Iraqi government and the Kurdish regional government failed to reach agreement on an allocation of national oil revenues that would be given to the Kurdish region, or on the issue of Kurdish control over revenues from fields in Kurdish territory, although some press reports in December 2006 say a deal may be close. Barzani and Talabani, in statements, rejected the Iraq Study Group report, in particular the recommendation to delay the Kirkuk referendum.

